

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:11-CV-611-MOC-DCK**

DONNA L. BABSON,

Plaintiff,

v.

**HILLCREST FOODS, INC. d/b/a
WAFFLE HOUSE,**

Defendant.

**ORDER AND
MEMORANDUM AND
RECOMMENDATION**

THIS MATTER IS BEFORE THE COURT on the parties' "Joint Consent Motion To Stay And For Arbitration" (Document No. 15) filed February 3, 2012. This motion has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motion and the record, and noting the parties' consent, the undersigned will grant the motion.

By their motion, the parties have informed the Court that:

the Parties agree that there is a written agreement between Plaintiff and Defendant that was signed by Plaintiff on or about March 2, 2005. The Parties do not contest the validity of the March 2, 2005 arbitration agreement and the Parties agree that all claims currently alleged by the Plaintiff against the Defendant in the current civil action fall within the scope of the March 2, 2005 arbitration agreement.

(Document No. 15, p.1).

Based on the foregoing, the undersigned issues the following orders and recommendation.

IT IS, THEREFORE, ORDERED that the parties' "Joint Consent Motion To Stay And For Arbitration" (Document No. 15) is **GRANTED**. This matter shall be **STAYED** until otherwise ordered by the Court.

IT IS FURTHER ORDERED that Defendant's "Motion To Stay And Motion To Compel Arbitration" (Document No. 10) is **DENIED AS MOOT**.

IT IS FURTHER ORDERED that the parties file a Status Report, or in the alternative a Stipulation Of Dismissal, on or before **May 11, 2012**.

FOR THE FOREGOING REASONS, the undersigned also respectfully recommends that Defendant's "Motion To Dismiss" (Document No. 8) be **DENIED AS MOOT**.

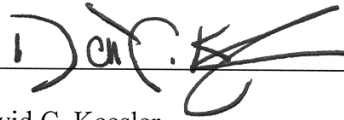
TIME FOR OBJECTIONS

The parties are hereby advised that pursuant to 28 U.S.C. § 636(b)(1)(C), and Rule 72 of the Federal Rules of Civil Procedure, written objections to the proposed findings of fact, conclusions of law, and recommendation contained herein may be filed within fourteen (14) days of service of same. Responses to objections may be filed within fourteen (14) days after service of the objections. Fed.R.Civ.P. 72(b)(2). Failure to file objections to this Memorandum and Recommendation with the District Court constitutes a waiver of the right to *de novo* review by the District Court. Diamond v. Colonial Life, 416 F.3d 310, 315-16 (4th Cir. 2005). Moreover, failure to file timely objections will preclude the parties from raising such objections on appeal. Diamond, 416 F.3d at 316; Page v. Lee, 337 F.3d 411, 416 n.3 (4th Cir. 2003); Snyder v. Ridenhour, 889 F.2d 1363, 1365 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 147-48 (1985), reh'g denied, 474 U.S. 1111 (1986).

The Clerk is directed to send copies of this Memorandum and Recommendation to counsel for the parties and the Honorable Max O. Cogburn, Jr.

IT IS SO ORDERED AND RECOMMENDED.

Signed: February 6, 2012



David C. Keesler
United States Magistrate Judge

